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March 22, 2023

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The Honorable Nitza I. Quiñones Alejandro
United States District Court
Eastern District of Pennsylvania
James A. Byrne U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Re: *In re: Fedloan Student Loan Servicing Litigation*, Dkt. No. 18-2833

Dear Judge Quiñones:

In support of its Motion to Dismiss (Doc. No. 55), Defendant Pennsylvania Higher Education Assistance Agency (PHEAA) respectfully submits this notice of supplemental authority concerning an opinion bearing on the issues in this case: *Berman v. Pa. Higher Educ. Assistance Agency*, No. 1:21-cv-63, 2023 U.S. Dist. LEXIS 44100 (M.D.N.C. Mar. 16, 2023) (attached hereto as Exhibit A). In *Berman*, the court dismissed claims predicated upon alleged servicing errors in PHEAA's administration of the Public Service Loan Forgiveness Program for a lack of subject-matter jurisdiction based on derivative sovereign immunity grounds under *Yearsley v. W.A. Ross Construction Co.*, 309 U.S. 18 (1940).

PHEAA submits that this supplemental authority supports its argument for dismissal of Plaintiffs' claims for lack of subject-matter jurisdiction under *Yearsley*. See Doc. No. 55-2, PHEAA Memorandum of Law in Support of Mtn. to Dismiss, at 17-24; Doc. No. 73, PHEAA Reply Memorandum in Support of Mtn. to Dismiss, at 4-6.

Respectfully,



Jason A. Leckerman
JAL/rm

cc: All Counsel of Record (via ECF)